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SENATE

{ REPORT
106-341

WHEELING NATIONAL HERITAGE AREA ACT OF 2000

JULY 12, 2000.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 2247]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2247) to establish the Wheeling National Heritage Area in the State of West Virginia, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 7, line 11, strike “a”.
 2. On page 8, line 19, strike “loans or”.
 3. On page 9, line 11, strike “to”.
 4. On page 10, after line 7, insert the following:
“(f) REVISION OF PLAN.—Within 18 months after the date of enactment, the management entity shall submit to the Secretary a revised plan. Such revision shall include, but not be limited to—
“(1) a review of the implementation agenda for the heritage area;
“(2) projected capital costs; and
“(3) plans for partnership initiatives and expansion of community support.”.
 5. On page 10, line 15 strike “shall,” and insert in lieu thereof “may,”.
 6. On page 10, line 19, strike “, LOANS”.
 7. On page 10, line 22, strike “loans and”.
 8. On page 11, strike lines 21 and 22 and insert the following:
“(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act \$10,000,000, except that not more than \$1,000,000 may be appropriated to carry out this Act for any fiscal year.
“(b) MATCHING FUNDS.—Federal funding provided under this Act shall be matched at least 25 percent by other funds or in-kind services.
- “SEC. 9. SUNSET.
“The Secretary may not make any grant or provide any assistance under this Act after September 30, 2015.”.

PURPOSE OF THE MEASURE

The purpose of S. 2247 is to establish the Wheeling National Heritage Area in the State of West Virginia and designate the

Wheeling National Heritage Area Corporation as the management entity. The Secretary of the Interior is authorized to provide interpretive, technical, and financial assistance.

BACKGROUND AND NEED

The area in and around the city of Wheeling, West Virginia possesses important historical, cultural, and natural resources representing major heritage themes of transportation, commerce and industry, and the Victorian culture in the United States. Wheeling served as the western terminus of the National Road of the early 1800's, was one of the few major inland ports during the nineteenth century, and played an important role in the industrial and commercial heritage of the United States through the development of industries such as iron and steel, textile manufacturing, and others.

In 1990, the city of Wheeling, the Wheeling Community, and the State of West Virginia, with assistance from the National Park Service, formed the Wheeling Heritage Area Task Force to identify opportunities for conserving and developing the city's resources. The Task Force produced the Wheeling Heritage Concept Plan, which explored Wheeling's history along with its many natural and cultural resources. In the spring of 1991, the Task Force commissioned a Development/Action Plan to determine how best to tell Wheeling's unique story using the city's heritage resources. The plan provides the blueprint for the Heritage Area and recommends that Wheeling's significant resources and story be recognized through the establishment of the Wheeling National Heritage Area. Once completed, the operation of the Heritage Area is designed to be locally managed and financially self-sustaining.

LEGISLATIVE HISTORY

S. 2247 was introduced by Senator Byrd on March 9, 2000. Testimony from witnesses on this bill was included in the record of the hearing held by the Subcommittee on National Parks, Historic Preservation, and Recreation on May 25, 2000. At its business meeting on June 7, 2000, the Committee on Energy and Natural Resources ordered S. 2247, as amended, favorably reported.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on June 7, 2000, by a unanimous vote of a quorum present, recommends that the Senate pass S. 2247, if amended as described herein.

COMMITTEE AMENDMENTS

During the consideration of S. 2247, the Committee adopted amendments which made several technical and clarifying changes. The amendments also incorporate several other provisions which have become standard in authorizations for other heritage areas. The provisions include a requirement that the management entity submit a management plan to the Secretary, that the heritage area be subject to standard appropriation ceilings and matching fund requirements, and that the authority for Federal financial assistance terminate 15 years after the date of enactment.

SECTION-BY-SECTION ANALYSIS

Section 1 designates the bill's short title as the "Wheeling National Heritage Area Act of 2000."

Section 2(a) contains congressional findings.

Subsection (b) describes the purposes of the Act. The purposes are as follows: (1) to recognize the importance to the Nation of the history and development of the Wheeling area; (2) to provide a framework to assist the city of Wheeling and other entities to preserve, enhance, and interpret the area's resources; (3) to provide limited Federal, State, and local financial assistance for planning and infrastructure; and (4) to provide for an economically self-sustaining National Heritage Area that is not dependent on Federal funding beyond its initial years.

Section 3 defines key terms used in the Act.

Section 4(a) establishes the Wheeling National Heritage Area.

Subsection (b) designates the management entity for the heritage area as the Wheeling National Heritage Area Corporation.

Section 5(a) describes the primary mission of the management entity in implementing and coordinating the recommendations of the 1992 Plan for the Wheeling National Heritage Area, and in directing and coordinating the interpretation, conservation, and development of the heritage area's resources.

Subsection (b) directs the management entity to work with the State and local governments to ensure that the plan is formally adopted by the city of Wheeling and recognized by the State.

Subsection (c) describes the specific responsibilities of the management entity with respect to implementing the plan.

Subsection (d) describes the authority of the management entity with respect to the use of Federal funds made available under the Act. The management entity may make grants, enter into cooperative agreements, and provide technical assistance to Federal agencies and State, city, or other public or private organizations, and may hire and compensate staff. The management entity may also obtain money from any source under any program or law requiring them to make a contribution in order to receive the money, and may spend funds on promotion and marketing and to contract for goods and services.

Subsection (e) prohibits the management entity from acquiring and real property or interest therein, other than leasing of facilities, except by gift or devise, or with money that is made available to the management entity on the condition that it be used to purchase real property or interest therein within the heritage area. Any property so acquired must be conveyed by the management entity, as soon as practicable, to an appropriate public or private entity on the condition that it will be used for public purposes.

Subsection (f) requires the management entity to submit a revised management plan for the Heritage Area to the Secretary within 18 months after the date of enactment of this Act.

Section 6 authorizes the Secretary of the Interior to assist the management entity by providing interpretive, planning, educational, and staffing support, and exhibits and other material support. The Secretary is also authorized to provide technical assistance, make grants, and enter into cooperative agreements with the management entity, the State, city, non-profit organizations or any

person. No amendments to the management plan may be made without the Secretary's approval.

Section 7 requires all Federal agencies conducting or supporting activities that directly affect the heritage area to consult, cooperate, and coordinate with the Secretary and the management entity to the extent practicable, and to conduct their activities in a manner that will not have an adverse effect on the heritage area.

Section 8 authorizes the appropriation of \$10 million, with a \$1 million limit for any fiscal year, subject to a 25 percent match of funds or in-kind services.

Section 9 terminates the authority of the Secretary to make any grant or provide any assistance under this Act after September 30, 2015.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 16, 2000.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2247, the Wheeling National Heritage Area Act of 2000.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Deborah Reis (for federal costs), and Jean Wooster (for the private-sector impact).

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

S. 2247—Wheeling National Heritage Area Act of 2000

S. 2247 would establish the Wheeling National Heritage Area in Wheeling, West Virginia. The bill would designate the Wheeling National Heritage Corporation as the management entity for the area and direct this nonprofit organization to implement a previously developed management plan. The corporation would provide financial and technical assistance to state and local agencies and other entities. The Secretary of the Interior would provide technical assistance to the corporation and approve or disapprove any amendments to the management plan. For these purposes, the bill would authorize the appropriation of \$10 million, not to exceed \$1 million annually over the next 15 years.

Assuming appropriation of the authorized amounts, CBO estimates that implementing S. 2247 would cost \$10 million over the next 10 to 15 years. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. S. 2247 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

S. 2247 would impose private-sector mandates, as defined by UMRA, on the Wheeling National Heritage Area Corporation. The costs of the mandates would fall well below the annual threshold established by UMRA for private-sector mandates (\$109 million in 2000, adjusted annually for inflation). The bill would require the corporation, as the management entity for the Heritage Area, to implement the current management plan for the area and to submit a revised management plan to the Secretary of the Interior for approval. The bill also would require that the management entity assist local governments and other organizations in activities related to purposes of the area. S. 2247 also would impose specific prohibitions on the management entity in the manner in which they may acquire real property. According to the corporation, it currently complies with most of the requirements in the bill. Further, based on information from the corporation and government sources, the restrictions related to acquiring property would not prevent the corporation from pursuing any planned purchases or activities for the area. Thus, CBO estimates that the costs of the mandates would fall well below the annual threshold established by UMRA for private-sector mandates.

The CBO staff contacts for this estimate are Deborah Reis and Ali Aslam (for federal costs), and Jean Wooster (for the private-sector impact). The estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2247. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 2247, as ordered reported.

EXECUTIVE COMMUNICATIONS

On, May 23, 2000, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on S. 2247. These reports had not been received at the time the report on S. 2247 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the National Park Service at the Subcommittee hearing follows:

STATEMENT OF KATHERINE STEVENSON, ASSOCIATE DIRECTOR FOR CULTURAL RESOURCES STEWARDSHIP AND PARTNERSHIPS, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to appear before your committee today to present the views of the

Department of the Interior on S. 2247, to establish the Wheeling National Heritage Area in Wheeling, West Virginia.

The Department supports S. 2247, if amended as recommended by this testimony. The Administration objects to the bill's loan authority, which is not consistent with the letter or the spirit of the Federal Credit Reform Act of 1990.

S. 2247 would provide the formal legislative charter for a heritage area which is already established and has received support from Congress for the last decade through annual appropriations. This legislation would establish the Wheeling National Heritage Area and designate the Wheeling National Heritage Area Corporation (WNHAC), a non-profit corporation chartered in the State of West Virginia, as the management entity for the heritage area. It would require WNHAC to implement and coordinate the recommendations contained in the August 1992 Plan for the Wheeling National Heritage Area, ensure integrated operation of the heritage area, and conserve and interpret the historic and cultural resources of the heritage area. The legislation would authorize funding appropriated by Congress to be used by the WNHAC for such purposes as making loans or grants, paying staff, and doing promotion and marketing.

As is the case with other areas that have been designated as national heritage areas by Congress, the city of Wheeling is a place where natural, cultural, historic, and scenic resources combine to form a cohesive, nationally distinctive landscape arising from patterns of human activity that are shaped by geography. Through the development and maintenance of many industries crucial to the nation's expansion, including iron and steel, textile manufacturing, boat building, glass manufacturing, and tobacco manufacturing, Wheeling has played an important role in the industrial and commercial heritage of the United States. Today, a mix of nationally, regionally, and locally significant sites illustrate an important chapter in United States history.

Federal support for the effort to identify and conserve cultural resources in Wheeling began with the development of the 1990 Concept Plan for the Wheeling Area, with which the National Park Service assisted. That document, which included a statement of national significance for the area, encouraged Congress to appropriate funds for the development of a management action plan and other early initiatives. The Wheeling National Heritage Area was one of our nation's first heritage areas to complete a management plan and receive ongoing technical assistance from the National Park Service.

The Wheeling National Heritage Area plan, completed in 1992, provided an inventory of the area's resources, recommended policies for resource management and interpretation, and set forth a program for plan implementation. For the past eight years, this plan, which was approved by

the National Park Service, has guided WNHAC in its pursuit of appropriations and the expenditure of those funds to implement projects.

The Wheeling National Heritage Area Corporation has been successful in completing a number of large projects that were described in their plan, including:

- the renovation of an historic warehouse into a restaurant/museum/retail area;
- the construction of a five-story intermodal transportation center that includes a visitor center with interpretive exhibits;
- the design and implementation of the first phase of the Wheeling Heritage Port—a new focal point for the city and an attempt to reestablish river traffic back to downtown Wheeling;
- the renovation and lighting of the Wheeling Suspension bridge, a national historic landmark;
- the development of interpretive exhibits in West Virginia Independence Hall, also a national historic landmark;

and many more smaller community-based and historic preservation projects.

Wheeling has been fortunate to have superb local leadership, community support, and ongoing technical assistance from the National Park Service. In addition, the funds appropriated by Congress have encouraged investment by the private sector as well as matching funds from the city and the state. In a relatively short amount of time, the work that has been done as a result of having a national heritage area plan and a commission to implement it has made a real impact on the preservation of the city's cultural resources and in the quality of life that Wheeling-area residents enjoy.

While we support enacting legislation to authorize the Wheeling National Heritage Area, we recommend six changes to S. 2247 as introduced.

First, we object to the authority in section 5(d)(1) for the management entity to use Federal funds to make loans to various entities. No criteria or administrative guidelines have been developed for heritage areas to ensure that the taxpayers' funds are being used properly. For management entities with limited administrative resources, it would be an administrative burden to set up payment schedules, underwriting, and loan servicing sufficient to provide confidence that a loan program is using Federal funds in an accountable manner. We believe there are more effective ways for management entities to use limited Federal funds than creating loan programs.

Second, we strongly object to the authority in section 6(c) for the Secretary to make loans to the management entity. Such loans would be subject to the Federal Credit Reform Act of 1990, so it would require a significant investment to administer the loans, estimate subsidy costs, and track loan payments. This would impose a new burden on the National Park Service, which does not have this ca-

pability, and would not be cost-effective for such a small program. Establishing such a loan program without reference to the Federal Credit Reform Act or the capacity to implement those procedures is not consistent with recent credit reform efforts.

Third, we recommend requiring that the Wheeling National Heritage Area plan be updated and submitted to the Secretary of the Interior within 18 months of enactment of the bill. Under a requirement to update the plan, WNHAC would review their original implementation agenda and projected capital costs, and consider proposals for new partnership initiatives that may not have been considered in the original document. Updating the plan would give the WNHAC a formal opportunity to take stock of what has been accomplished, how the priorities of the community have evolved, and how community support for the heritage area can be broadened.

Fourth, we recommend that section 6(b) be revised so that the Secretary may, not shall, provide technical assistance. There may be instances, such as the unavailability of appropriated funds, where we cannot provide all of the technical assistance requested by the management entity.

Fifth, we recommend changing the authorization of funding for the Wheeling National Heritage Area to make it consistent with the funding provisions that Congress typically has used in establishing other national heritage areas. The bill as introduced provides for the authorization of “such sums as may be necessary” for the heritage area. We recommend that the bill authorize not more than \$1,000,000 for any fiscal year, and not more than a total of \$10,000,000 over 15 years. We also recommend a 50 percent non-Federal match requirement.

Finally, we recommend that the Secretary’s authority to provide assistance terminate in 2015. Adding this sunset provision, like the authorization provisions suggested above, would make this legislation consistent with other legislation Congress has passed in recent years.

Amendments reflecting these proposed changes are attached to this statement.

Mr. Chairman, that concludes my statement. I would be pleased to answer any questions you or other members of the Subcommittee may have.

AMENDMENTS TO S. 2247, WHEELING NATIONAL HERITAGE AREA, PROPOSED BY THE NATIONAL PARK SERVICE

Page 6, line 3, insert “Area” after “Heritage”. [*technical amendment*]

Page 8, line 19, strike “loans or”.

Page 10, after line 7, insert the following:

“(f) REVISION OF PLAN.—Within 18 months after the date of enactment, the management entity shall submit to the Secretary a revised plan. Such plan shall include, but not be limited to—

“(1) Review of the implementation agenda for the heritage area;

“(2) Projected capital costs; and

“(3) Plans for partnership initiatives and expansion of community support.”.

Page 10, line 15, strike “shall,” and insert in lieu thereof “may,”.

Page 10, line 19, strike “, LOANS”.

Page 10, line 22, strike “loans and”.

Page 11, strike lines 21 and 22 and insert the following:

“(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act \$10,000,000, except that not more than \$1,000,000 may be appropriated to carry out this Act for any fiscal year.

“(b) 50 PERCENT MATCH.—The Federal share of the cost of activities carried out using any assistance or grant under this Act shall not exceed 50 percent.”.

Page 11, at end of bill, add the following:

“SEC. 9. SUNSET.

“The Secretary may not make any grant or provide any assistance under this Act after September 30, 2015.”.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 2247, as ordered reported.